O/Constitution/52

1952.

File No. 79/52

Legal Department

G **BRANCH**

K

Subject:—

P=6
E

Opinion on the
Constitution of India

O/Constitution/52

File No. 79/52

Gen. 194 e.

C O N T E N T S

Legal Department File No.O. Constitution /52

Sr. No.	R.I./C.No.	Subject	Pages
		Opinion on the Constitution of India.	
1	G-443 12/9/52	Question whether an order can be issued under the Bombay Essential Commodities and and Cattle (Control) Act, prohibiting or regulating export of firewood and Charcoal outside the State of Bombay	1-6
2	G-444 12/9/52	Question whether there would be any objection to imposing a zonal or district ban on the removal of firewood and charcoal	7-8
3	G-507 7/10/52	Question whether under the district ban export from a place in one district to any other place outside the dist. in the State of B'bay but not outside the State of Bombay can be stopped. (Copies not made)	9-12

5 c.
V.R.K.
21/7/56.

PHb 28/7

Nlcs 28/7

Legal Department

In the case of the State of Bombay Vs. Hasan Alreja (53 Bom. L.R. 837) the Bombay Land Requisition (Amendment) Act, 1950, which was passed after the commencement of the Constitution, by section 2 thereof extended the life of the original Act, viz., the Bombay Land Requisition Act, 1948 for a further period of two years. The Bombay High Court, to which the case went in appeal, held that to the extent the law is enacted section 2 of the Bombay Land Requisition (Amendment) Act, 1950, did not put on the Statute Book any new legislation. When an Act is passed extending the duration of some law it cannot be said that some new law was created. The old law already on the Statute Book continues. Even temporary statutes which are made perpetual by subsequent Acts, become perpetual not from the date of the subsequent Act but ab initio According to the decision of the Bombay High Court the Bombay Essential Commodities and Cattle (Control) Act, 1946 which was originally enacted on the 30th September 1946, continues to be the same old law although its life has been extended from time to time. Therefore, in view of position stated in R.L.A.'s opinion No. G-249, dated the 2nd April 1949, and No. G-83, dated the 25th February 1952, no fresh order can be passed under the Act banning export of charcoal and firewood from any place in the State of Bombay to any other place in India outside the State except to the extent pointed out therein. The course open, therefore, seems to be to impose a district or zonal ban.

O/C Sd/-
11/9

Additional Secretary to Government.

U.R. to C.S.D. No. G-443, dated the 12th September 1952.

4 c.
V.R.K.
21/7/56

Legal Department.

It will be seen from the Additional Secretary's opinion on in the linked case No. G-443, dated the 12th September 1952, that no order can be issued under the Bombay Essential Commodities and Cattle (Control) Act xxx prohibiting or regulating export of firewood and charcoal outside the State of Bombay. However as suggested by the Civil Supplies Department there would be noobjection to imposing a zonal or district ban. What cannot be banned by a statutory order cannot also be banned by an executive order. No executive action can therefore, be taken for prohibiting export outside the State.

O/C Sd/-
12/9

Additional Secretary to Government.

xx U.R. to C.S.D. No. G-444, dated the 12th September 1952.

4 c.
V.R.K.
21/7/56